

REMARKS

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 21-22, 25-40, 42-54, and 57-70 are presently active in this case. The present Amendment amends Claims 21, 37, 54, and 65; cancels Claims 23-24, 41, and 55-56; and adds Claim 70.

The outstanding Office Action rejected Claims 23, 37-53 and 55 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Claim 37 was provisionally objected to as being duplicate of Claim 23. Claims 21-23, 25-33, 35, 37-40, 42-50, 52-55, 57-66, 68 and 69 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Tsuchida (JP 3-59-109328) in view of Kasugai (U.S. Patent No. 4,952,347).

Claims 24, 34, 41, 51, 56 and 67 were indicated as allowable if rewritten in independent form. Applicant acknowledges with appreciation the indication of allowable subject matter. In response, Claim 21 is amended to incorporate the allowable subject matter of Claim 24; Claim 37 is amended to incorporate the allowable subject matter of Claim 41; and Claim 54 is amended to incorporate the allowable subject matter of Claim 56. Claims 24, 41, and 56 are thus canceled and Claims 21-22, 25-40, 42-54, and 57-70 are believed to be patentably distinct over the prior art and allowable.

Claim 65 is amended to correct an informality so as to be consistent with the language of Claim 54, from which Claim 65 depends.

In response to the provisional objection to Claim 37 as being duplicate of Claim 23, Claim 23 (and Claim 55) is canceled so that the issue is now moot.

In response to the rejection of Claims 37-53 under 35 U.S.C. § 112, first paragraph, Applicant respectfully traverses the rejection because the specification conveys to one skilled

in the art that the inventors, at the time the application was filed, had possession of the claimed invention. Specifically, the specification teaches an embodiment where the parison comprises stacked layers, as recited in Claims 37-53. For example, at page 3, lines 22-31,

Applicant's specification states:

It is also possible to use ***multilayered structures consisting of stacked layers fastened to one another***, comprising at least one of the polymers or copolymers described above. Such multilayered structures may be obtained by means of a coextrusion head or by a technique of completely or partially covering a substrate layer with one or more other layers. An example of the covering technique is the spraying of plastic onto the substrate layer using a spray gun.

Furthermore, at page 9, lines 15-24, Applicant's specification states:

The tubular ***multilayer*** extrudate (1) of circular cross section, which has ***external layers*** made of high-density polyethylene and a ***central barrier layer*** made of ethylene-vinyl alcohol copolymer (EVOH) surrounded by two layers of adhesive made of maleic-anhydride-grafted polyethylene, leaves the extrusion head (2) and is separated into two sheets (1), using two steel blades (3) placed at 180° to each other, at the exit of the circular die mounted on the extrusion head (2).

In view of this disclosure, it is believed that Claims 37-53 are fully supported by the specification and no further rejection on that basis is anticipated. If, however, the Examiner disagrees, the Examiner is invited to telephone the undersigned who will be happy to work with the Examiner in a joint effort to derive mutually acceptable language.

In order to vary the scope of protection recited in the claims, new dependent Claim 70 is added. Claim 70 finds non-limiting support in the disclosure as originally filed, for example in original Claim 7 and at page 9, lines 25-26. Therefore, new Claim 70 is not believed to raise a question of new matter.¹

In response to the rejection under 35 U.S.C. § 103(a) as being unpatentable over Tsuchida in view of Kasugai, Applicant respectfully traverses the rejection. However, in the

¹ See MPEP 2163.06 stating that "information contained in any one of the specification, claims or drawings of the application as filed may be added to any other part of the application without introducing new matter."

spirit of moving prosecution forward for the present application, each independent claim is amended to include allowable subject matter as discussed above. Therefore, the rejection is now moot. Applicant reserves the right to present the rejected claims, or similar claims, in a continuation application and to address any traversed issues in such application.

The present amendment is submitted in accordance with the provisions of 37 C.F.R. § 1.116, which after Final Rejection permits entry of amendments canceling rejected claims or complying with requirements of form set forth in a previous Office Action. As the present amendment cancels rejected claims and rewrites allowable Claims 24, 41, and 56 in independent form as suggested in the previous Office Action, it is respectfully requested that the present amendment be entered. The new Claim 70 is not believed to raise a new issue because Claim 70 is dependent from an allowable claim and recites subject matter which was previously considered when original Claim 7 was considered.² Furthermore, even if the Examiner does not consider the present application to be in condition for formal Allowance, the present amendment places the claims in better form for consideration on appeal. It is therefore respectfully requested that 37 C.F.R. § 1.116 be liberally construed, and that the present amendment be entered.

Consequently, in view of the present amendment, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal Allowance. A Notice of Allowance for Claims 21-22, 25-40, 42-54, and 57-70 is earnestly solicited.

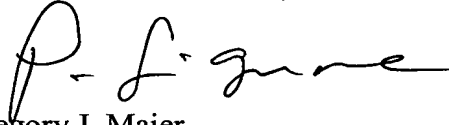
² See for example Office Action dated October 16, 2003, at page 3.

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Reply to Office Action of August 17, 2004

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact Applicant's undersigned representative at the below listed telephone number.

Respectfully submitted,

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